CF0000057873

Cr.A 343/95

माननीय न्यायालय श्रीमान् उच्च न्यायालय जबलपुर म0प्र0

पी0अपील कृमांक- /94 (3)

ST 86/93

28/11/94

बैंच उर्फ बाबा आ0 बीटन, आयु-28 वर्ष,
निवासी ग्राम चीतालता, हाल मुकाम गैरसा,
अम्बिकापुर, जिला सरगुजा म0प्र0

.....अपीलार्थी

विरूद्ध

मध्य प्रदेश शासन
द्वारा :- थाना प्रभारी ,
थाना धौरपुर,
पुलिस चौकी लुण्ड्रा, सरगुजा

.....उत्तरवादी

अपील विरूद्ध आदेश दिनांक 28.11.94 सत्र प्रकरण
कृ0-86/93 पारित द्वारा द्वितीय अपर सत्र न्यायाधीश
अम्बिकापुर, सरगुजा मध्य प्रदेश .

उच्च न्यायालय, जबलपुर, बिलासपुर

(13)

आदेश पत्रक

मामला क्रमांक Cr. A. 343/95 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON'BLE SHRI L.C.BHADOO & HON'BLE SHRI DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO. of 343 OF 1995

Appellant : Chench @ Baba

Vs.

Respondent : State of Madhya Pradesh

Smt. Hamida Siddiqui, learned counsel for the appellant.

Shri U.N.S.Deo, learned Additional Public Prosecutor with Shri M.P.S.Bhatia, learned Panel Lawyer for the respondent/State.

ORAL J U D G M E N T
(06.02.2006)

L.C.Bhadoo, J

By this appeal under Section 374 (2) of the Cr.P.C. the appellant has questioned the legality of the judgment of conviction and order of sentence dated 28.11.94 passed by learned Additional Sessions Judge, Ambikapur in S.T. No. 86/93 whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of murder of Balram convicted him under Section 302 of the IPC and sentenced him to undergo imprisonment for life.

2. Case of the prosecution in brief is that P.W.-5 Tunaram lodged a report P-7 on 29.07.94 at police chowki Lundra, police station Dhairpur to the effect that a day before thereto at about 6.00 p.m. accused Chench @ Baba

पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(19)

मामला क्रमांक C.A. No. 313/[illegible] सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

asked his wife Sonharo Bai to give him food on which she replied that she has just returned after grazing the goats therefore, she has not prepared food and the food of all the persons has been prepared at the residence of Govind, on which accused Chench asked his wife as to why she did not prepare food started abusing her, picked up an axe and rushed towards her to attack, on which Balram (since deceased) snatched the axe from the accused which enraged him. The accused kicked Balram as a result of which he fell down. Balram again asked Chench to accompany him, he would provide food. Balram took the accused in the room of Matko Bai and provided him water. Thereafter he started going to bring food. However accused Chench chased and attacked him with carpenter's axe as a result of which Balram fell down in the courtyard but the accused again attacked Balram with carpenter's axe on parietal region, head and back from its sharp side, as a result of which Balram sustained injuries and blood started oozing from the injuries sustained by Balram. Tunaram asked the accused why he was attacking so many times. Even then, accused did not stop and continued to attack Balram with carpenter's axe and ran away. Merg intimation P-10 was reduced to writing. On receiving this report an intimation was sent to the police station Dhairpur where FIR (P-1) was registered. Thereafter Investigating Officer left for the scene of occurrence. After giving notice to the panchas he prepared the panchnama of the body P-8. Blood stained soil and plain soil were taken into possession under P-9. Accused was arrested under P-13. Clothes of the deceased were taken into possession under P-14, carpenter's axe was taken into possession under P-15 and clothes of the accused were

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(15)

आदेश पत्रक

मामला क्रमांक Cr.A. 343/95 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

taken into possession under P-16. The recovered articles were sent to Forensic Science Laboratory, Sagar for chemical examination from where report P-17 was received. Body of Balram was sent for post mortem examination to Primary Health Centre, Lundra where Dr. D.B.Deshmukh conducted post mortem on the body of Balram and prepared report P-3. After completion of investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Ambikapur who in turn committed the case to the Session Judge, Ambikapur from where the learned Additional Sessions Judge received the case on transfer for trial.

3. Prosecution in order to establish the charge against the accused person examined as many as eleven witnesses. Statement of the accused was also recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence appearing against him. He produced one witness in defence namely Munna.

4. After hearing the arguments of learned Public Prosecutor and counsel for the accused/appellant learned Additional Sessions Judge, Ambikapur convicted and sentenced the appellant as mentioned in paragraph one of the judgment.

5. We have heard Smt. Hamida Siddiqui, learned counsel for the appellant and Shri U.N.S.Deo, learned Additional Public Prosecutor with Shri M.P.S.Bhatia, learned Panel Lawyer for the respondent/State.

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

आदेश पत्रक

मामला क्रमांक Cr.A.No. 343/95 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
6.	Homicidal nature of death of Balram is not in dispute.	
7.	As far as the involvement of the accused/appellant in committing the murder of Balram is concerned, P.W.5 Tunaram in whose presence crime in question was committed had lodged the report P-7 in which he had clearly stated that accused/appellant assaulted the deceased Balram with carpenter's axe. Before the Court as P.W.-5 he has stated that on the fateful day there was *Chhati* festival and food was prepared at the residence of Govind, brother of the appellant and Balram asked Chench to accompany him for food at the residence of Govind on which accused said that he will take food on which Balram brought water and gave it to the accused, thereafter accused attacked Balram with carpenter's axe on the neck as a result of which Balram fell down. Thereafter also accused attacked Balram with carpenter's axe on his head. He again assaulted Balram with carpenter's axe on head and chest. He asked the accused why he was attacking Balram on which accused ran away. Blood started oozing out of the injuries of Balram. Balram succumbed to the injuries and he lodged the report P-7. P.W.-6 Laali Bai wife of the deceased has corroborated the above evidence of Tunaram in material particulars. Evidence of these eye witnesses has been corroborated by the evidence of Dr. D.B.Deshmukh P.W.-2 who has stated that he conducted the post mortem on the body of Balram on 29.07.92 and found that there were five injuries on the body of Balram and submitted his report P-3. According to P.W.-2 Dr. D.B.Deshmukh the cause of death was head injury because the skull was fractured and brain material was coming out of it. Defence	

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(17)

मामला क्रमांक Cr.A.No. 343/95 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	has not been able to elicit any circumstance from the evidence of P.W.-5 Tunaram and P.W.-6 Laali Bai to make their evidence unreliable or untrustworthy.	
8.	In view of the ocular and medical evidence adduced by the prosecution, we are of the considered opinion that there is no infirmity or illegality in the judgment of trial Court convicting the accused under Section 302 of the IPC and sentencing him to undergo imprisonment for life.	
9.	In the result, the appeal is liable to be dismissed and the same is hereby dismissed.	
	Sd/- L.C.BHADOO Judge	Sd/- DHIRENDRA MISHRA Judge

[पीछे देखिये